IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO.5130 OF 2005

Vinod Kaluram Patil ...Applicant
vs.
The State of Maharashtra ...Respondent

Mr.Surel S. Shah for the Applicant
Mr.R.Y.Mirza, A.P.P. for State

CORAM: A.S.OKA,J.
DATE : AUGUST 23,2005

P.C.:

1. Heard Advocate for the Applicant and learned A.P.P. for State. The offence alleged against the Applicant and other co-accused is punishable under section 302 read with Section 34 of the I.P.C. The allegation against the Applicant is that he along with co-accused committed an offence of murder of one Raju @ Raja Mhatre. The learned Advocate for the Applicant submitted that the statements of so called eye witnesses create a serious doubt regarding involvement of the Applicant in the offence. He submitted that the Eye witnesses have not stated regarding the presence of the Applicant at the scene of the offence. The learned A.P.P. submitted that the co-accused have acted at the instance of the Applicant and the widow of the deceased has stated that in the evening on the same day on which the deceased was murdered, the Applicant took the deceased with him on the pretext that talks of settlement are to be held for settling the dispute on the

basis of which a complaint was filed against the deceased. He pointed out that one of the eye witnesses has stated that the deceased was assaulted by the Applicant. He submitted that no case is made out for grant of bail.

2. I have considered the submissions. The widow of the deceased has stated that in the evening on the fateful day the Applicant took the deceased along with him and at 9.00 p.m., a boy informed her that someone has assaulted the deceased. The statement of one Algu Ramlakhan Chauhan recorded by the police implicates the Applicant. He has stated that the Applicant and the co-accused Shailesh assaulted the deceased by fist blows and kicks and at that time two other accused came there with weapons. The said witness has not stated that the Applicant assaulted the deceased by any weapon. One Smt.Guddi Pawar claims to be an eye witness to the offence stated that she along with other witness heard the shouts of the deceased at about 8.30 p.m. Both the said witnesses viz.Smt. Guddi Pawar and Smt.Rekha Bhosale stated that they saw the co-accused Vasant and Shailesh assaulting the deceased by knife. They have stated that the co-accused Vasant and Kaka assaulted the deceased on his head by a heavy stone. Both the witnesses have not stated anything about the presence of the Applicant at the time when deceased was assaulted. Thus, the version of the prosecution witnesses about the presence of the Applicant is totally inconsistent. It is to be noted here

that one Shailesh Samarth, who is another accused in the present case had filed F.I.R. against the deceased alleging that the deceased had committed murder of one Babu. The said F.I.R. is filed about eleven months prior to the date of incident.

3. The inconsistent version of the prosecution witnesses make out a case for grant of bail. However, stringent conditions will have to be imposed.

4. Hence I pass the following order :

i) The Applicant shall be enlarged on bail in connection with C.R.No. I-72 of 2005 registered with Kalwa Police Station, District Thane subject to furnishing a personal bond of Rs.15,000/- (Rupees fifteen thousand only) with two local sureties in the like amount.

ii) Bail is granted subject to the condition that till conclusion of the trial, the Applicant will not enter the area falling within the jurisdiction of Kalwa Police station, Thane.

iii) The order granting bail will be given effect to only after the Applicant furnishes to the Investigating Officer his detailed address of place of residence where he proposes to

stay after he is enlarged on bail.

iv) The Bail is granted subject to condition that the Applicant shall not, directly or indirectly, make any inducement or threat to any prosecution witnesses and shall not in any manner tamper with prosecution evidence.

v) The Applicant shall cooperate with the learned Trial Judge for expeditious disposal of the trial. Any attempt by the Applicant to delay the trial may be a ground for cancellation of bail.

vi) Any observation made in this order shall not be construed as any finding or any expression of opinion on the merits of the case at the time of trial.

vii) Application is disposed of in above terms.

viii) The parties to act upon an authenticated copy of this order.

JUDGE